

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

Jason Cupp,
Appellant,

v.

Johnson County Board of Review,
Appellee.

ORDER

Docket No. 13-52-0346
Parcel No. 0719353007

On December 26, 2013, the above-captioned appeal came on for consideration before the Iowa Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2)(a-b) and Iowa Administrative Code rules 701-71.21(1) et al. Appellant Jason Cupp was self-represented and requested his appeal proceed without a hearing. Assistant County Attorney Andy Chappell is counsel for the Board of Review. The Appeal Board now having examined the entire record and being fully advised, finds:

Findings of Fact

Jason Cupp is the owner of property located at 2343 Dempster Drive, Coralville, Iowa. The real estate was classified residential on the January 1, 2013, assessment and valued at \$430,000, representing \$81,000 in land value and \$349,000 in improvement value.

Cupp protested to the Board of Review claiming the property was inequitably assessed under Iowa Code section 441.37(1)(a)(1) and that the property was assessed for more than authorized by law under section 441.37(1)(a)(2). He asserted the correct value was \$400,000. The Board denied the protest.

Cupp then appealed to this Board reasserting his claims.

The property record card indicates the subject is a two-story home built in 2012. It has 2623 square feet of above-grade living area and a full, walkout basement with 1087 square feet of finish. It

also has a three-car attached garage; 253 square feet of unfinished attic area over the garage; and several porches, patio, and deck areas. The site is 0.310 acres.

Cupp submitted five properties on his protest asserting his property is inequitably assessed.

The following chart summarizes these properties.

Address	Year Built	Size	Basement Finish	2013 Total Assessment	AV/SF
Subject	2012	2623	1087	\$430,000	\$163.93
2338 Dempster Dr	2012	2607	859	\$398,800	\$152.97
2268 Dempster Dr	2006	2698	1100	\$399,200	\$147.96
700 Forest Edge Dr	1999	2706	1695	\$390,200	\$144.20
520 Auburn Hills Dr	2000	2657	1182	\$402,100	\$151.34
1875 Brown Deer Rd	2002	2719	1215	\$394,200	\$144.98

First, we note an equity analysis typically compares *prior year sale prices* (2012 sales in this case) or established market values to the *current year's assessment* (2013 assessment) to determine the sales-ratio. Only one of the properties Cupp submitted recently sold. The property at 2338 Dempster Drive sold in November 2012 for \$399,900 indicating an assessment/sale ratio of 1.00. A ratio of 1.00 suggests the assessment is at fair market value. However, an equity analysis requires more than one comparable property.

Further examination of the comparables Cupp submitted show there are some dissimilarities between the properties. With the exception of 2338 Dempster Drive, all the comparables are six to thirteen years older than the subject property. Older properties would have greater depreciation, which would be reflected in the assessed value. We also note 2268 Dempster Drive and 700 Forest Edge Drive have two-car attached garages compared to the subject's three-car attached garage; and it appears 520 Auburn Hills Drive and 2268 Dempster Drive lack a walkout lower level similar to the subject. These elements would also affect the assessed value of the properties. Given the overall similarities in style, size, and basement finish; and because his property appears to be similar to 2338 Dempster Drive, yet its assessment is over \$30,000 less than his is, we understand Cupp's concern

with his assessment as compared to the properties he selected. However, there is simply not enough information to prove his property is inequitably assessed.

Cupp did not provide any evidence of the fair market value of his property as of January 1, 2013.

The Board of Review did not submit any evidence.

Conclusion of Law

The Appeal Board applied the following law.

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2011). This Board is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount. § 441.37A(3)(a). The Appeal Board considers only those grounds presented to or considered by the Board of Review. § 441.37A(1)(b). However, new or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct. § 441.37A(3)(a).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. § 441.21(1)(b). "Market value" essentially is defined as the value established in an arm's-length sale of the property. *Id.* Sale prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. *Id.* If sales are not available, "other factors" may be considered in arriving at market value. § 441.21(2). The assessed value of the property shall be one hundred percent of its actual value. § 441.21(1)(a).

To prove inequity, a taxpayer may show that an assessor did not apply an assessing method uniformly to similarly situated or comparable properties. *Eagle Food Centers v. Bd. of Review of the*

City of Davenport, 497 N.W.2d 860, 865 (Iowa 1993). Alternatively, a taxpayer may show the property is assessed higher proportionately than other like property using criteria set forth in *Maxwell v. Shivers*, 257 Iowa 575, 133 N.W.2d 709 (Iowa 1965). The six criteria include evidence showing

“(1) that there are several other properties within a reasonable area similar and comparable . . . (2) the amount of the assessments on those properties, (3) the actual value of the comparable properties, (4) the actual value of the [subject] property, (5) the assessment complained of, and (6) that by a comparison [the] property is assessed at a higher proportion of its actual value than the ratio existing between the assessed and the actual valuations of the similar and comparable properties, thus creating a discrimination.”

Id. at 711. The *Maxwell* test provides that inequity exists when, after considering the actual and assessed values of comparable properties, the subject property is assessed at a higher proportion of this actual value. *Id.* The *Maxwell* test may have limited applicability now that current Iowa law requires assessments to be at one hundred percent of market value. § 441.21(1). Nevertheless, in some rare instances, the test may be satisfied.

Cupp offered for five equity comparables, however only one had sold in 2012. As previously noted, an equity analysis typically compares *prior year sale prices* (2012 sales in this case) or established market values to the *current year's assessment* (2013 assessment) to determine the sales-ratio. Moreover, an equity analysis under *Maxwell* requires more than one comparable property as well as evidence of the subject property's actual value. The Iowa Supreme Court has interpreted “representative number of comparable properties” to be more than one property. *Maxwell v. Shiver*, 257 Iowa 575, 581, 133 N.W.2d 709, 712 (1965). This “statutory requirement is both a jurisdictional prerequisite and an evidentiary requirement for bringing a claim of inequitable or discriminatory assessment before the board.” *Montgomery Ward Dev. Corp. by Ad Valorem Tax, Inc. v. Cedar Rapids Bd. of Review*, 488 N.W.2d 436, 441 (Iowa 1992). Furthermore, the word “shall” as used in the statute makes the listing of comparable properties mandatory as failing to do so would “directly frustrate[] the sole function of the requirement, which is to enable the board to make a preliminary determination on the matter of equitability of assessment.” *Id.* Finally, Cupp did not assert different

assessing methods were used to value the property. Thus, his evidence did not prove inequity under either legal test.

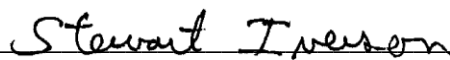
In an appeal alleging the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(a)(2), the appellant has a two-fold burden. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995). First, the appellant must show that the assessment is excessive. Iowa Code § 441.21(3); *Boekeloo*, 529 N.W.2d at 276-77. Second, the appellant must provide evidence of the property's correct value. *Boekeloo*, 529 N.W.2d at 276-77. Cupp did not submit any evidence of the fair market value of the subject property as of January 1, 2013.

THE APPEAL BOARD ORDERS the 2013 assessment of Jason Cupp's property located at 2343 Dempster Drive, Coralville, Iowa, as set by Johnson County Board of Review is affirmed.

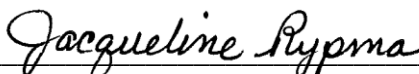
Dated this 23rd day of January, 2014.



Karen Oberman, Presiding Officer



Stewart Iverson, Board Chair



Jacqueline Rypma, Board Member

Copies to:
Jason Cupp
2343 Dempster Drive
Coralville, Iowa 52241
APPELLANT

Andy Chappell
Assistant County Attorney
PO Box 2450
Iowa City, Iowa 52244
ATTORNEY FOR APPELLEE